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10/518,262

12/16/2004

Wolfgang Johannes Obermann

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,262

Applicant(s)

OBERMANN, WOLFGANG
JOHANNES

Examiner

Ghassem Alie

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

1. This action is a response to an amendment filled on 05/21/07 in claims 1-6 and 21 are pending and claims 7-20 have been cancelled.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the curve set forth in claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noted that spring 37 in Figs. 5 and 7 extends in a linear recess. In Fig. 7, which appears to be another embodiment of the hair-cutting apparatus, the spring is curved. However, it is not shown that the spring extends in a curve recess.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "37" has been used to designate both a rod spring and a leaf spring. It appears that spring 37 shown in Fig. 6 is a leaf spring and the spring 37 shown in Fig. 7 is rod spring. Applicant has stated that the leaf spring 34 is shown in Figs. 6 and 7. See second paragraph in page 5 of the amendment. It does not appear that spring 37 in Fig. 6 is the same spring in Fig. 7. Spring 37 in Fig. 7 appears to be a rod spring. If spring 37 in Figs. 6-7 is a leaf spring then the drawings fail to show a rod spring as set forth in claim 3. In addition, if spring 37 in Fig. 6 is a leaf spring then Fig. 7 is not an additional view of the hair-cutting apparatus shown in Figs. 1-6, since Fig. 7 shows another embodiment of the hair-cutting apparatus that has a rod spring; instead of a leaf spring. Therefore, the brief description of the drawings in the specification should be revised to reflect the two different embodiments based on two different types of springs shown in Figs. 5-6.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: the specification does not have section headings. It should be noted that each section of the specification should be provided with a proper section heading. For example, the section of the specification that describes the background of the invention should have "BACKGROUND OF THE INVENTION" as a section heading. See arrangement and content of the specification in MPEP 601 (I). Applicant's refusal to correct the specification by providing

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headings is noted. It is agreed that the section headings are not mandatory. The suggested section headings are merely a recommended format to facilitate review of a disclosure.

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The abstract of the disclosure is objected to because include legal phraseology used in claims, such as "comprises." Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3, "wherein the spring means are formed by a rod-type or leaf-type spring that extends substantially transversely to the direction of movement of the movable portion and that extends in a curve" is not accurate. It should be noted that it could be argued that leaf spring extends substantially transversely to the direction of movement of the movable portion. However, the rod spring is not extended substantially transversely to the

direction of the movable portion and also it does not extend in a curve. See Figs. 5 and 7 in the instant application. In addition, it should be noted that a rod spring or a leaf is a clearly defined structure. Therefore, addition of "type" to the rod spring or a leaf spring renders the scope of the invention indefinite, since it is not clear how a spring should like to be considered as a rod spring or a leaf spring.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 2, 5, 6, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Severson (1,506,139). Regarding claim 1, Severson teaches a hair-cutting apparatus including a cutting arrangement 12, 16 for cutting hair and means 9, 10, 37 for counter-acting flying off cut hair from the hair-cutting apparatus. Severson also teaches that means 9, 10, 37 includes a boundary wall extending close to the cutting arrangement 12, 16. It should be noted that the top portion of the cutter carrying end 7 of the handle 5 and the hood or guard 37 which moves relative to the top portion of the cutter carrying end are considered to be a boundary wall. The boundary wall includes a stationary wall which is the top wall of the cutter carrying portion 7 and the hood 37 is considered to be a movable wall of the boundary wall. Severson also teaches that the boundary wall includes a stationary portion and a portion that is movable relative to the stationary portion. Severson also teaches that the movable portion is being arranged and positioned to cooperate with the hair to be cut dependent on

the nature and condition of the hair. It should be noted that the movable portion 37 moves back on its pivot against the action of spring 41 when the movable portion is pushed against the hair. Therefore, the movement of the movable portion is according to the nature and condition of the hair. It should be noted that the amount of the movement of the movable portion in Severson's hair-cutting apparatus is at least depends to the thickness of the hair. The thickness of the hair is considered to be the nature of the hair. See Figs. See Figs. 1-3 and page 2, lines 6-115 in Severson.

Regarding claim 2, Severson teaches everything noted above including that means 9, 10, 37 includes a spring means 40 that cooperates with the movable portion 37 of the boundary wall. Severson also teaches that the spring means 40 spring loads the movable portion 37 in direction of the hair to be cut and wherein the movable portion 37 being movable in opposition to the force exerted by the spring means 40 when cooperating with hair to be cut.

Regarding claim 5, Severson teaches everything noted above including a suction arrangement 9, 10, 37 is provided to suck away cut hair, and the suction arrangement includes a suction passage 9 that is defined by passage walls. Severson also teaches at least some of that passage walls extend close to the cutting arrangement 12, 16 and ends of which situated close to the cutting arrangement define a suction opening through which air be sucked into the suction passage 9. Severson also teaches that the air is sucked into the passage 18 in a direction of suction at a given velocity of flow. Severson also teaches a passage wall is formed by the boundary wall having the stationary portion and the

movable portion 37.

Regarding claim 6, Severson teaches everything noted above including that the suction arrangement 9, 10, 37 includes a varier means 37, 40 for varying the velocity of the flow in the region of the suction opening and wherein the varier means 37, 40 are formed by the movable portion 37 of the boundary wall.

Regarding claim 21, Severson teaches everything noted above including a suction arrangement substantially contained in the apparatus. The apparatus has a handle 6 and the suction arrangement is within the handle of the apparatus.

11. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Zucker (3,302,286). Regarding claim 1, Zucker teaches a hair-cutting apparatus including a cutting arrangement 24 for cutting hair and means 12, 48, 59 for counter-acting flying off cut hair from the hair-cutting apparatus. It should be noted the fitting 48, the comb plate 59, and the portion of frame 12 which is located between the comb plate 59 and the fitting 48 considered to be a means that counter-acting flying off cut hair. The engagement of the comb portion of the comb plate 59 with the scalp 40 lift the plate against the action of spring 68. See Figs. 1-4 and col. 3, lines 43-67 in Zucker. The comb plate 59 which is considered to be the movable portion moves relative to the frame 12 and is arranged and positioned to cooperate with the hair to be cut dependent on the nature and condition of the hair. Severson also teaches that means 12, 48, 59 includes a boundary wall extending close to the cutting arrangement 24. It should be noted that the wall defined by the comb plate 59 and the wall defined by the portion of the frame 12 located between the fitting 48 and the comb plate 59 are considered to be a boundary wall. The comb plate 59 is considered to be the

movable portion of the boundary wall and the wall of the frame 12 adjacent to the comb plate 59 is considered to be the stationary portion of the boundary wall. Zucker also teaches that the boundary wall includes a stationary portion and a portion 59 movable relative to the stationary portion. Zucker also teaches that the movable portion 59 being arranged and positioned to cooperate with the hair to be cut dependent of the nature and condition of the hair.

Regarding claim 2, Zucker teaches everything noted above including that means 12, 48, 59 includes a spring means 68 that cooperates with the movable portion 59 of the boundary wall. Zucker also teaches that the spring means 68 spring loads the movable portion 59 in direction of the hair to be cut and wherein the movable portion 59 being movable in opposition to the force exerted by the spring means 68 when cooperating with hair to be cut.

Regarding claim 3, as best understood, Zucker teaches everything noted above that the spring 68 is formed by a rod-type spring that extends substantially transversely to the direction of movement of the movable portion 59 and in a curve or a recess created by the sidewalls of the frame 12. See Fig. 3 in Zucker.

Regarding claim 5, Zucker teaches everything noted above including a suction arrangement is provided to suck away cut hair, and the suction arrangement includes a suction passage that is defined by passage walls. Zucker also teaches at least some of that passage walls extend close to the cutting arrangement 24 and ends of which situated close to the cutting arrangement define a suction opening through which air be sucked into the suction passage. Zucker also teaches that the air is sucked into the passage in a direction of suction at a given velocity of flow. Zucker also teaches a passage wall is formed by the boundary wall having the stationary portion and the movable portion. It should be noted that the wall portion also is part of the passage wall of the suction 48 that guide the hair into the suction passage of the suction 48. See Fig. 3 in Zucker.

Regarding claim 6, Zucker teaches everything noted above including that the suction arrangement includes a varier means for varying the velocity of the flow in the region of the suction opening and wherein the varier means are formed by the movable portion 59 of the boundary wall.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Severson in view of Marchetti et al. (4,074,427), hereinafter Marchetti. Regarding claim 3, as best understood, Severson teaches everything noted including that the spring 40 is a leaf spring. However, Severson does not explicitly teach that the leaf spring extends substantially transversely to the direction of movement of the movable portion and that extends in a curve. However, the use of a leaf spring extending transversely to the direction of a movable member is well known in the art such as taught by Marchetti. Marchetti teaches a leaf spring 6 that cooperates with a movable member or a guard member 31. The spring loads the movable member in the direction of the hair to be cut. See Figs. 1-7 and col. 3, lines 12-53 in Marchetti. It should be noted that the leaf spring in Severson's apparatus functions the same as the leaf spring in Marchetti's apparatus. It would have been obvious to a person of ordinary skill in the art to replace the leaf spring in Severson's hair cutting apparatus with the leaf spring in Marchetti, since both leaf springs are art-recognized equivalent and function the same. Because these two leaf springs were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute one for another.

Regarding claim 4, Severson, as modified by Marchetti, does not teach explicitly that the leaf spring force lies in a range between 10 mN and 50 mN. However, it appears that the tension force required to extend movable member to its extended position is between 10 mN to 50 mN. In addition, it would have been obvious to a person of ordinary skill in the art to provide a tension force between 10 mN to 50 Nm for the spring in Severson's hair clipper, as modified above, since it is within a person of ordinary skill in the art to choose a specific

spring force value that is suitable for biasing a wall member towards a frame. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zucker. Zucker teaches everything noted above except that resilient force exerted by the spring means 68 is within 10mN and 50mN. However, Official Notice is taken that used of a rod spring with a resilient force of 10mN and 50mN is well known in the art. In addition, it would have been obvious to a person of ordinary skill in the art to provide a tension force between 10 mN to 50 Nm for the spring in Zucker's hair clipper, since it is within a person of ordinary skill in the art to choose a specific spring force value in the range of 10 mN to 50 mN that biases the movable portion 59 relative to the stationary portion of the boundary wall and according to the scalp contour. See col. 3, lines 60-67 in Zucker. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Amendment

15. Applicant's arguments filed on 05/21/07 have been fully considered but they are not persuasive. Applicant's arguments that Severson does not teach that movable portion of the boundary wall is arranged to cooperate with the hair to be cut dependent on the nature and condition of the hair is not persuasive. As discussed above, the boundary wall includes a stationary wall which is the top wall of the cutter carrying portion 7 and the hood 37 is considered to be a movable wall of the boundary wall. Severson teaches that the boundary wall includes a stationary portion and a portion that is movable relative to the stationary

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portion. Severson also teaches that the movable portion is being arranged and positioned to cooperate with the hair to be cut dependent on the nature and condition of the hair. It should be noted that the movable portion 37 moves back on its pivot against the action of spring 41 when the movable portion is pushed against the hair. Therefore, the movement of the movable portion is according to the nature and condition of the hair. See Figs. See Figs. 1-3 and page 2, lines 6-115 in Severson.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-83008300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Ghassem Alie
Patent Examiner
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GA/ga

Ghassem Alie

August 2, 2007